IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 504 of 2005

Between:

Sri Satyala Radhakrishna, S/o.Late China Apparao,

Upa Sarpanch of Paradesipalem
Gram Panchayathi, Visakhapatnam Rural Mandal,
Visakhapatnam Dist.

..... PETITIONER

AND

1 The Revenue Divisional officer, Visakhapatnam District.
2 The Divisional Panchayathi officer, Visakhapatnam.
3 The District Panchayathi officer, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to declare the action of the 1st Respondent in issuing the Notice dated 16-1-2005 in Rc.NO.4719/2004 as arbitrary and illegal issuing a writ, order or direction more particularly one in the nature of writ of Mandamus and set aside the same in the interest of justice and to pass such other or further orders.

Counsel for the Petitioner: MR.G.RAMA GOPAL

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the admission stage made the following:

ORDER:

The present writ petition is filed questioning the proceedings Rc.No.4719/2004 dated 16-1-2005, contrary to Rule 3 of Rules prescribed under G.O.Ms.No.200, dated 28.04.1998, as illegal and arbitrary.

Heard the learned counsel for the petitioner and the learned Government Pleader for Panchatat Raj & Rural Development. Both the counsel agreed for disposal of the writ petition at the stage of admission.

It is submitted by the learned Government Pleader for Panchayat Raj that the present writ petition is filed mainly contending that 15 days time excluding the date of notice was not provided to the petitioner and that the subject matter is squarely covered by a judgment of the Full Bench of this Court in ***K.Sujatha v. Government of Andhra Pradesh and another*** wherein their Lordship held as follows:

> "The purpose and object of giving notice of consideration of no-confidence motion is only to give due intimation to the members or information of the proposed meeting. Therefore, the fact that a member has got a shorter period of notice than fifteen clear days from the date of receipt of the notice would not matter. When notice is sent by post and the law permits the date of sending of notice to be treated as the date of delivery in that case obviously the period available to the member will be shorter than fifteen clear days from delivery to meeting, therefore, there is no reason why the Rule 3 be held to be mandatory as regards the service of notice. Unless it is shown that the shortfall in the period of notice of the meeting has caused some prejudice to the member, neither the meeting nor the proceedings taken there under would be said to be invalid. It is only in the eventuality of prejudice being shown that the meeting or the proceedings taken there

under can said to be invalid. The Legislature has rightly not provided in the rule that non-compliance of any shortfall in the notice would render the meeting or the proceedings taken there under to be invalid. Had that been the intention, the Legislature, obviously, would have provided since the law had been clearly settled by the time the Act was enacted and the Rules were framed by the judgment in ***K.Narasimhaiah v.Singri Gowda and others, AIR 1966 SC 330.*** In that view of the matter, we are of the opinion that the ratio of the judgment of the Division Bench of this Court laid down in ***B.Ananda Reddy v. The Revenue Divisional Officer, Jagtial (W.P.Nos.1755 and 1579 of 2003, dated 16.10.2003)*** case that non-service of notice of fifteen clear days would make the meeting and the proceedings taken there under null and void cannot be said to be the correct law."

In the circumstances, following the above judgment of the Division Bench of this Court, the Writ Petition is dismissed. No costs.

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N.V.RAMANA,J

Dated: 27.01.2005

Dsr/Tvk

To:

1 The Revenue Divisional officer, Visakhapatnam District.
2 The Divisional Panchayathi officer, Visakhapatnam.
3 The District Panchayathi officer, Visakhapatnam.

4 Two CCs to the Government Pleader forPanchayat Raj & Rural Dev.,

High Court Buildings, Hyderabad (OUT)

5 Two CD copies

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